

REMARKS

Claims 1-5 are pending in this application. By this Amendment, the specification and claims 1-5 are amended. Claim 2 is amended to recite features supported in the specification at, for example, page 75, line 20 – page 76, line 12 and Figs. 27-29. Claims 1 and 3 are amended to correct minor informalities. Claims 4 and 5 are rewritten into independent form. No new matter is added by any of these amendments.

Applicants gratefully acknowledge that claims 4 and 5 contain allowable subject matter. As such, Applicants amend claims 4 and 5 to recite the features of claim 2. However, Applicants assert that all of claims 1-3 are allowable for the reasons discussed below.

Reconsideration based on the following remarks is respectfully requested.

I. The Specification Satisfies All Formal Requirements

The Office Action objects to the specification based on informalities. The specification has been amended to obviate the objection. However, Applicants respectfully note that Applicants' copy of the specification does not show the alleged error of "properties" instead of --properties-- at page 5, line 26. The relevant paragraph has nonetheless been amended.

Additionally, the specification has been reviewed and amended to correct informalities not identified in the Office Action. Withdrawal of the objection to the specification is respectfully requested.

II. Claims 1-3 Define Patentable Subject Matter

The Office Action rejects claims 1-3 under 35 U.S.C. §102(e) over U.S. Patent 5,630,531 to Gaucher, or in the alternative under 35 U.S.C. §103(a) over Gaucher. These rejections are respectfully traversed.

Gaucher does not teach or suggest a container with a pump, comprising (a) a container body made up of an inner layer and an outer layer which are made of synthetic resin and separably laminated on each other, wherein the outer layer has an air suction hole

formed therein and a portion of the inner layer adjacent to the air suction hole is partly separated from the outer layer; and (b) a pump comprising a cylinder inserted into the container body through a neck of the container body and a cap whereby the pump is hermetically fitted to the neck, wherein the cylinder is provided with a flange-like seal around the outer periphery thereof, the flange-like seal coming in contact with the inner surface of the neck tightly, as recited in claim 1.

Gaucher does not teach or suggest a container with a pump, comprising (a) a container body made up of an inner layer and an outer layer which are made of synthetic resin and separably laminated on each other, wherein the outer layer has an air suction hole formed therein and a portion of the inner layer adjacent to the air suction hole is partly separated from the outer layer, (b) a pump comprising a cylinder inserted into the container body through a neck of the container body and a cap whereby the pump is hermetically fitted to the neck, and (c) an inner lid having a cylindrical portion with upper and lower edges, a flange disposed at the upper edge and a ring-like seal disposed at the lower edge, the ring-like seal coming in contact with the outer surface of the cylinder of the pump tightly, and fitted in the neck of the container body, as recited in claim 2. These reasons apply by extension to claim 3 based on its dependence from claim 2.

For example, the specification discloses various exemplary aspects of a container body (D) fitted with a pump (E) through a neck (405) of the container, with the pump (E) having a cylinder (421) and a cap (420). The fifth embodiment describes the container forms both outer and inner layers (401, 402). An air-section hole (406) forms in the neck (405) of the outer layer (401). Collapse of the inner layer (402) produces an extended portion (409) thereby creating a space (408) adjacent to the hole (406) between the layers. The pump cylinder (421) includes an annular flange-like seal (425) around its outer periphery contacting the neck (405), forming a tight radial seal. Support for these features can be found, for example, at page 63, line 10 – page 64, line 8, page 68, lines 18-27 and Fig. 25.

The sixth embodiment describes an inner lid (F) fitted to the neck (405). The inner lid (F) includes a cylindrical portion (432) having a flange (431) at its upper edge and a ring-like seal (433) at its lower edge and projecting radially inward. Support for these features can be found, for example, at page 75, line 20 – page 76, line 19 and Figs. 27 and 29. For the Examiner's convenience, Figs. 25, 27 and 29 are shown below.

FIG. 25

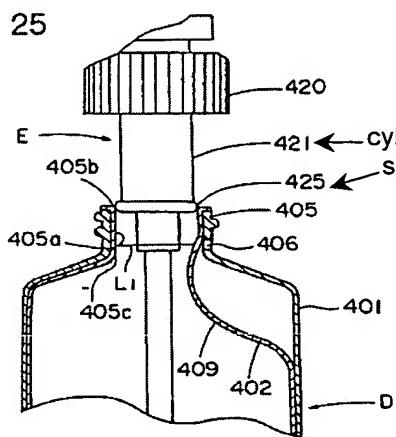
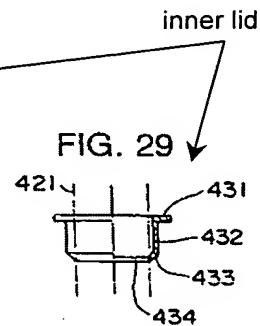
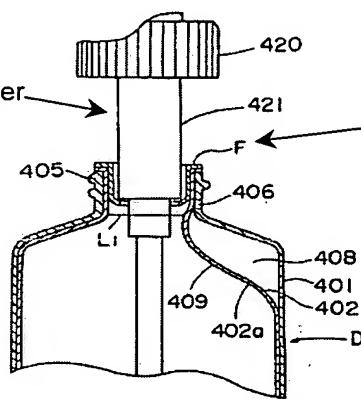


FIG. 27



Instead, Gaucher discloses a packaging and dispensing device. In particular, Gaucher teaches the device as including a deformable inner container 1, a rigid outer container a pump 15 disposed into open necks 16, 17 of the respective outer and inner containers 2, 1. The pump 15 includes a cylindrical body 13 containing a piston 6 held closed against valves 8, 9 by a spring 10. The piston 6 and the body 13 define a collapsible chamber 7 in which the piston 6 is depressed against the spring 10 by the plunger 5.

Further, Gaucher teaches the body 13 is disposed within the neck 17 with an outer folded lip projecting above and radially outward from the necks 16, 17, and an annular peg 14 that projects down and inwardly from the lip to secure the pump 15 to the containers 1, 2. Gaucher also teaches an annular seal 4 axially mounted between the folded lip of the body 13 and the neck 17 of the inner body 1 (col. 6, lines 23-60 and Fig. 1 of Gaucher). For the Examiner's convenience, the relevant portion of Fig. 1 of Gaucher is shown below.

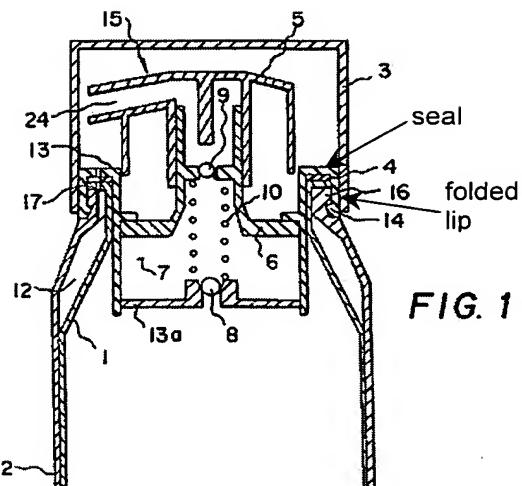


FIG. 1

Thus, Gaucher provides an outer peripheral surface of the pump body 13 being in pressure contact with inner peripheral surface of the mouth 16 of the inner container 1 with the annular seal 4 to contain pressure in the axial direction, but fails to teach or suggest the either a flange-like seal around the outer periphery of the

pump cylinder, as provided in claim 1, or else a ring-like seal at the lower edge of the inner lid fitted in the container neck, as provided in claim 2.

A claim must be literally disclosed for a proper rejection under §102. This requirement is satisfied “only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference” (MPEP §2131). Applicants assert that the Office Action fails to satisfy this requirement with Gaucher.

Further, there is no motivation to modify features related to the annular seal axially disposed between the pump body and the inner neck of Gaucher to achieve Applicants' claimed features. Nor has the Office Action established sufficient motivation for a *prima facie* case of obviousness. Even assuming that motivation to modify the applied reference is established, the result fails to teach or suggest Applicants' claimed features.

A *prima facie* case of obviousness for a §103 rejection requires satisfaction of three basic criteria: there must be some suggestion or motivation either in the references or knowledge generally available to modify the references or combine reference teachings, a reasonable expectation of success, and the references must teach or suggest all the claim limitations (MPEP §706.02(j)). Applicants assert that the Office Action fails to satisfy these requirements with Gaucher.

For at least these reasons, Applicants respectfully assert that the independent claims are now patentable over the applied reference. The rejected dependent claim is likewise patentable over the applied reference for at least the reasons discussed, as well as for the additional features it recites. Consequently, all the claims are in condition for allowance. Thus, Applicants respectfully request that the rejections under 35 U.S.C. §§102 and 103 be withdrawn.

III. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further is desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Gerhard W. Thielman
Registration No. 43,186

JAO:GWT/gwt

Attachment:
Amendment Transmittal

Date: June 9, 2005

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461
--